

220 CMR: DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

220 CMR 16.00 RULES GOVERNING THE RECOVERY OF EXPENSES RELATING TO THE PROVISION OF WIRELINE ENHANCED 911 (E-911) SERVICES, DUAL PARTY TDD/TTY MESSAGE RELAY SERVICES, AND ADAPTIVE EQUIPMENT SERVICES BY TELECOMMUNICATIONS CARRIERS

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16.01: Purpose and Scope

(1) Purpose. The purpose of 220 CMR 16.00 is to establish rules and regulations governing the recovery of expenses that have been, are, or will be incurred by telecommunications companies in the provision of wireline enhanced 911 service, dual party TDD/TTY message relay service, and adaptive equipment services from January 1, 2003, through December 31, 2007. Regarding recovery of any deficit incurred by telecommunications companies prior to January 1, 2003, in the provision of such services, the Department shall determine what portion of directory assistance revenues will be used to offset that deficit, including any interest that the Department may determine should be applied.

(2) Scope. 220 CMR 16.00 applies to telecommunications companies and their agents doing business in Massachusetts, as defined below.

16.02 Definitions

As used in 220 CMR 16.00, the terms set forth below shall have the following meanings, unless the context requires otherwise,

Adaptive Equipment Services means a system of administration and record keeping, as well as distribution, repair and replacement of adaptive equipment for certified subscribers, as described in 220 CMR 273.00, including specialized customer premises equipment such as artificial larynxes, signaling devices, amplified handsets, large number dial overlays, direct telephone dialers,

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telebrailles, TDD/TTY and other devices which provide access to telephone networks for people with hearing, speech, vision and/or mobility impairments. It also includes the controls for sound amplification of incoming transmissions at public coin and coinless telephones as described in 220 CMR 273.00.

Department means the Department of Telecommunications and Energy.

Dual Party TDD/TTY Message Relay Service means a telephone system which uses third party intervention to connect certified deaf, hard of hearing and speech impaired persons, who use TDD/TTY equipment, with each other and/or with persons of normal hearing and speech.

Local Exchange Service means voice-grade telephone exchange lines or channels that provide local access from the premises of a subscriber in Massachusetts to the local telecommunications network to effect the transfer of information.

Private Safety Agency is any entity, except for a municipality or a public safety agency, providing emergency police, fire, ambulance or medical services.

Public Safety Agency is a functional division of a municipality or the state that provides fire fighting, law enforcement, ambulance, medical or other emergency services.

Public Safety Answering Point (PSAP) means a facility assigned the responsibility of receiving wireline 911 calls and, as appropriate, directly dispatching emergency response services or transferring or relaying wireline emergency 911 calls to other public or private safety agencies.

Statewide Emergency Telecommunications Board (SETB) means the board within the executive office of public safety that is currently responsible for coordinating and effecting the implementation of wireline enhanced 911 in Massachusetts and for administering the service, including but not limited to the promulgation of technical and operational standards in the design, implementation and operation of public safety answering points that utilize the wireline enhanced 911 network features.

Subscriber means an end user who receives telephone exchange access service.

TDD/TTY means a telecommunications device for the deaf consisting of terminals that permit two-way, typed telephone conversations with or between deaf or hearing-impaired people.

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Telecommunications Company means all persons, firms, corporations, associations and joint stock associations or companies, as defined in M.G.L. c. 159, furnishing or rendering local telephone exchange service to subscribers in Massachusetts, including resellers and facilities-based carriers.

Voice Grade Exchange Telephone Line means any retail dial-tone line capable of accessing 911 service. For purposes of 220 CMR 16.00, this refers only to wireline services.

Wireline Enhanced 911 Service means a service consisting of telephone network features provided for users of the public telephone system enabling such users to reach a public safety answering point by dialing the digits 911. Such service directs wireline 911 calls to appropriate public safety answering points based on selective routing. Wireline Enhanced 911 also provides the service capability for automatic number identification (*i.e.*, the automatic display of the seven-digit number used to place a 911 call) and automatic number location (*i.e.*, the automatic display of information relating to the geographical location of the telephone used to place a 911 call).

Wireline Enhanced 911 System means a distinct entity or geographical segment in which enhanced 911 service is provided. It consists of an electronic switching system serving as a control office, trunking connecting all central offices within a geographical segment, and the public safety answering points and circuits from such public safety answering points to a database for retrieval of location information.

16.03 Application of the Surcharge

(1) Description. The surcharge is intended to recover prudently incurred costs associated with the provision of wireline enhanced 911 service, dual party TDD/TTY message relay service, and adaptive equipment services.

(2) Application. The surcharge will be applied by all telecommunications companies on a monthly basis to residence and business voice grade exchange telephone lines or their equivalent. This will be reflected as a separate and distinct line item on the telephone subscriber's bill, which shall read "911/Disability Access Fee." The surcharge will be initially established for a five-year period, ending December 31, 2007.

(3) Collection of Revenues. The SETB shall establish and administer a fund relating to wireline enhanced 911 service, dual party TDD/TTY message relay service, and adaptive equipment services in Massachusetts, beginning January 1, 2003, in accordance with M.G.L. c. 166, § 18H. Each telecommunications

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company will remit to the SETB surcharge revenues generated under 220 CMR 16.00. Any proceeds and interest relating to the collection of this surcharge shall only be used for the provision of such services.

(4) Level of Surcharge. The Department will determine the level of the surcharge based on the estimated program costs provided by the SETB, as well as information provided by the telecommunications companies. The surcharge must be sufficient to recover not only prudently incurred costs associated with the provision of enhanced 911 service, dual party TDD/TTY message relay service, and wireline adaptive equipment services in Massachusetts, but also prudent capital improvements to be made to the wireline enhanced 911 system. The surcharge may also recover a portion of the deficit associated with the provision of wireline enhanced 911, TDD/TTY relay, and adaptive equipment services, under the statutory funding mechanism previously provided for in M.G.L. c. 166, §15E (St. 1990, c. 291, §7).

(a) Upon request by the Department, the SETB will provide a five-year projection of the reasonable, customary, or necessary program costs expected to be incurred by the SETB in the provision of wireline enhanced 911 service for all wireline customers in Massachusetts, including but not limited to a detailed explanation of any related administrative, training and public education costs contained in those cost projections.

(b) Upon request by the Department, each telecommunications company will provide historical data verifying its participation in the statutory funding mechanism.

(c) Upon request by the Department, each telecommunications company will provide the total number of retail end user voice grade and voice-grade equivalent lines currently served by that company. When determining voice grade-equivalent lines, the telecommunications companies shall use an equivalency factor for Centrex station lines and private branch exchange (PBX) trunks. The applicable station-to-trunk equivalency ratio for Centrex service is 9:1, and the equivalency ratio for each ISDN Primary Rate Interface system is 5:1. Non-voice-grade lines and lines that are not equipped for outgoing calls (*e.g.*, Direct Inward Dialing trunks and 800 service) will be excluded. Each telecommunications company will identify those services excluded from this line count and the basis for that exclusion.

(d) Upon request by the Department, each telecommunications company will provide a five-year projection of the reasonable, customary, or necessary program costs that the company expects to incur in the provision of TDD/TTY relay service in Massachusetts. In addition,

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each telecommunications company will provide the estimated five-year costs of its adaptive equipment services, where applicable.

(e) Upon request by the Department, each telecommunications company will provide data identifying the level of the deficit associated with the provision of wireline enhanced 911, TDD/TTY relay, and adaptive equipment services under the statutory funding mechanism previously provided for in M.G.L. c. 166, § 15E (St. 1990, c. 291, §7).

(5) Interim Surcharge. For the purposes of continuity of service, the Department may establish an interim surcharge to allow for the collection of funds to operate the programs identified in 220 CMR 16.00. The interim surcharge will be based on estimated reasonable, customary, or necessary program costs, and estimated line count data. The Department shall review the level of the interim surcharge and adjust the level of the surcharge once actual data become available.

(6) Recalculation. The Department shall have the option to review the level of the surcharge at any time. At the end of each calendar year, the SETB or a telecommunications company may petition the Department for a review of the level of the surcharge. The party requesting that the surcharge be adjusted bears the burden to prove the need for such adjustment. If, upon investigation, the Department determines to adjust the surcharge, it will provide telecommunications companies with at least 120 days written notice of that adjustment.

(7) Discontinuance of Service. Telecommunications companies may not discontinue a subscriber's telephone service for failure to pay the monthly surcharge. Partial customer payments are to be first applied to outstanding local exchange carrier charges. Telecommunications companies are not required to institute collections procedures on unpaid surcharge amounts.

(8) Other Fees. Surcharge receivables are collected by the telecommunications companies for the sole purpose of supporting the programs identified in 220 CMR 16.00. All receivables shall pass directly through the telecommunications companies to the SETB. These receivables shall not be used to calculate utility assessments. Telecommunications companies shall only be obligated to remit the actual amount collected from subscribers to the SETB.

16.04 Establishment of the Funding Mechanism

(1) Remitted Surcharge Amounts. Telecommunications companies will submit to the SETB all collected surcharge amounts, less an administrative fee, no more than 30 days after the last day of each month. That administrative fee is

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determined based on one percent of the surcharge amount collected by the telecommunications company.

(2) Deposits to the Fund. The SETB will forward the surcharge amounts remitted by the telecommunications companies to the state treasurer for deposit in the fund relating to wireline enhanced 911 service, dual party TDD/TTY message relay service, and adaptive equipment services in Massachusetts, beginning January 1, 2003.

(3) Payments from the Fund. The SETB will make payments to providers of wireline enhanced 911 service, TDD/TTY relay service, and adaptive equipment services upon receipt of an invoice, beginning January 1, 2003. The SETB will make payments to telecommunications companies for prudently incurred costs submitted to the SETB for the provision of such services, and shall make those payments within 45 days of receipt of a non-contested bill. Disputes on payments to telecommunications companies may be brought to the Department for resolution after reasonable attempts to resolve payment have been made by the telecommunications company and the SETB. In accordance with M.G.L. c. 166, § 18H, the Department may determine that the surcharge and funding mechanism described herein may be used by the telecommunications companies to recover all or a portion of the prudently incurred expenses for providing those services prior to January 1, 2003.

(4) Monitoring of Funds. The SETB will track monthly expenses and revenues received from the telecommunications companies under this section. The SETB may carry forward, on an annual basis, unspent monies in the fund for expenditures allowed by 220 CMR 16.00.

16.05 Reporting Requirements

(1) Remittance. By August 1 of each year, each telecommunications company will provide the Department and the SETB a report of surcharge amounts collected and remitted to the SETB for the 12 months ending June 30. The first report on August 1, 2003 will cover the six-month period ending June 30, 2003.

(2) Expenses Incurred. By August 31 of each year, the SETB will provide the Department with a report on the expenses incurred and surcharge revenue generated for the prior July 1 through June 30. The first report on August 31, 2003 will cover the six-month period ending June 30, 2003. At this time, the SETB may update its cost projections for the next five years.

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(3) Deficit. By August 1 of each year, each telecommunications company will provide the Department with a report on the status of the pre-existing deficit under the previous statutory funding mechanism referred to in 220 CMR 16.03(4)(d). The first report on August 1, 2003 will cover the six-month period ending June 30, 2003.

(4) Report to Legislature. The Department shall submit to the General Court an annual report identifying the financial condition of the fund, and shall address in the report the reasonableness of the capital expenditures and related expenses of the SETB incurred in complying with M.G.L. c. 166, §§ 14A and 15E.

16.06 Miscellaneous

(1) By June 30, 2007, the SETB and the telecommunications companies shall provide the Department with a report of current lines served and an estimate of the projected costs for the next five-year period.

REGULATORY AUTHORITY

220 CMR 16.00: St. 2002, c. 239, § 1.